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Summary record of the 1233rd meeting
Held at the Palais Wilson, Geneva, on Tuesday, 13 May 2014 at 3 p.m.

Chairperson: Mr. Grossman
later: Mr. Tugushi (Vice-Chairperson)

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Third periodic report of Lithuania (continued) (CAT/C/LTU/3; CAT/C/LTU/Q/3)

1. *At the invitation of the Chairperson, the delegation of Lithuania took seats at the Committee table.*

2. *Mr. Tugushi (Vice-Chairperson) took the chair.*

3. **Ms. Stankevičienė** (Lithuania) said that discussions on the establishment of a new national human rights institution had been under way in the Seimas (Parliament) since 2008, following recommendations by the human rights treaty bodies and the States parties to the Universal Periodic Review. In 2011, it had been decided to establish such an institution as part of the Seimas Ombudsman's Office. The bill establishing it had been evaluated by the Office of the United Nations High Commissioner for Human Rights (OHCHR), which had also provided legal advice. The text of the bill expanded the mandate of the Seimas Ombudsman's Office, assigning to it additional functions, in line with the Paris Principles, such as monitoring and reporting annually on the human rights situation in Lithuania, examining draft legislation to ensure its conformity with human rights, monitoring the compliance of existing legislation with international human rights obligations and publicizing human rights. A human rights division had already been established within the Seimas Ombudsman's Office, with a staff of five. The bill was expected to be submitted to Parliament in autumn 2014.

4. **Ms. Michailovskytė** (Lithuania) said that the Optional Protocol to the Convention had been ratified in December 2013 and, at the same time, Parliament had confirmed the amendments to the bill of the Seimas Ombudsman's Office. The Office carried out the functions of a human rights institution and visited places of deprivation of liberty for preventive purposes on a regular basis. The Seimas Ombudsman's Office could also visit and monitor psychiatric establishments and socialization centres. The sum of 542,000 litai had been allocated for the implementation of the Optional Protocol and a number of additional establishments had been created.

5. With regard to Mr. Domah's question about the activities of the Seimas Ombudsman's Office, he said that, in 2012, of the 2,697 applications received, including 1,805 new complaints, 31 per cent had been found to be justified. In 2013, the Office had received more applications, although fewer had been recognized as being justified. The rise in the number of complaints showed that the public were more aware of their rights.

6. **Mr. Mickevičius** (Lithuania) said that all international treaties formed an integral part of the Lithuanian legal system and took precedence over domestic legislation. The Lithuanian legal system was based on monism, which meant that a treaty could be directly applicable, with no need for conversion into domestic law. The only exceptions were treaties such as criminal law conventions, in which case domestic law was amended accordingly, although a court could cite an international treaty as grounds for its decision.

7. The Convention had been applied a few times in Lithuanian courts. In one case, a witness aged 11 had been questioned between 11 p.m. and midnight, which the Appeal Court had decided breached the principle of proportionality and the Lithuanian Constitution, as well as the European Convention on Human Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It had ruled that the timing of the questioning had been inappropriate and the evidence had been dismissed. In another case, an appeal had been heard by the Vilnius Administrative Court against a decision by the Migration Department to expel a person to a country that did not

apply the standards of the Convention. The grounds for the appeal had been the Convention and also article 3 of the European Convention on Human Rights.

8. The Criminal Code did not contain a separate article penalizing torture, although intentionally causing severe pain or suffering, either physical or mental, was prohibited under articles 99 (Genocide), 100 (Prohibited human treatment under international law) and 103 (Causing bodily harm to, torture or other inhuman treatment of persons protected under international humanitarian law) of the Code. Of those, article 100 was the most relevant, since it explicitly prohibited any act of torture committed intentionally in accordance with or in support of the policy of the State or of an organization. The article also prohibited the persecution of any group of persons on political, racial, national, ethnic, cultural, religious, sexual or other grounds, which corresponded to the provision relating to discrimination in the Convention. All three articles had no statute of limitations.

9. A number of other articles of the Criminal Code provided for criminal liability for various actions relating to torture, such as murder, serious bodily harm, the threat of murder or maiming. The decision of the Senate of the Supreme Court, cited by Mr. Gaye, related to article 129, paragraph 2 (6), of the Code, which criminalized murder by means of torture or other extremely cruel behaviour. The decision did not provide a definition of torture as such.

10. **Ms. Ivanauskienė** (Lithuania) said that there was a universal right to a defence counsel, under article 31 of the Constitution. Accused persons were informed of their rights and provided with reasonable facilities, similar to those provided for under international instruments. They were asked at the outset whether they wanted their own lawyers or a State counsel. The claim that legal assistance was not available at police detention centres was incorrect: lawyers were not prevented from meeting their clients. Problems might arise because a lawyer was otherwise engaged, but any lawyer refusing to provide legal assistance faced disciplinary charges. The Ministry of Justice had written to all lawyers reminding them of their professional duty and would shortly assess how lawyers' skills could be improved. The issue would be discussed at the upcoming session of the Coordination Council, which was made up of a number of relevant institutions.

11. A person taken into custody was provided within 24 hours with a written protocol of detention, on the basis of article 179 of the Code of Criminal Procedure, explaining his or her rights, setting out the grounds for the detention and assuring the right to question the body filing the accusation. A verbal explanation was insufficient, especially if the person concerned did not speak Lithuanian fluently.

12. With regard to a question asked at an earlier meeting by Mr. Tugushi concerning a case in which a woman had been murdered by her former husband after requesting help from the police, investigations had started in March 2013 and a judicial hearing was pending. Two police officers had been charged.

13. Coercive measures not involving restriction of liberty were increasingly used. The use of detention had thereby been diminished. Whereas in 2012 there had been 6,243 detentions, in 2013 the number had fallen to 4,423. There had been 153 cases of house arrest in 2011 and 96 in 2013. Bail and restraining orders were used more and more frequently and in 327 cases in 2013 identity documents had been confiscated.

14. **Mr. Mickevičius** (Lithuania) said that efforts were being made to reduce the number of pretrial detention orders. A new measure had been introduced in the form of electronic monitoring. It had worked well for people on probation and would also be used, from 1 January 2015, in cases of pretrial detention. Other draft amendments to the Code of Criminal Procedure were aimed at providing additional safeguards in respect of the imposition of pretrial detention. Bill No. XIIP-109 would allow a suspect and his or her lawyer access to data presented to the investigating magistrate by the prosecutor in

connection with a request that detention should be imposed. A detained person could also request that detention should be replaced by bail. Bill No. XIIP-1488 provided that an appeal concerning the imposition of pretrial detention should be examined by a panel of three judges, rather than one judge, as under current legislation.

15. **Mr. Petrauskas** (Lithuania) said, in response to a question from Mr. Domah, that the use of evidence given under torture was explicitly prohibited under article 41 of the Constitution. In reply to Mr. Grossman, he said that the reasons for the rise in the number of hate crimes in 2011 were that, since 2009, the Government had placed more emphasis on such crimes, which were generally committed through the Internet, and that victims reported them more often. In 2011, there had been 328 reports and 95 convictions had been obtained.

16. **Mr. Gagas** (Lithuania) said that Mr. Tugushi had earlier asked what steps had been taken to reduce the time that a person could be kept in a detention centre from the current period of 15 days. The Police Commissioner General had issued an order that the limit should be eight days, to be extended only in exceptional cases. In view of the fact that 34,000 people were placed in police detention every year, the police department had introduced a new project to set up a register of persons in police custody in order to ensure that they did not stay too long and that they had access to exercise. Such a register would make it easier to monitor a given situation. Moreover, videoconferencing facilities would be introduced, so that there would be no need to transport persons held in detention to court.

17. **Mr. Mickevičius** (Lithuania) said that it was intended to amend the Law of the Republic of Lithuania on Detention in a number of ways to ensure that detainees were kept in remand centres and not in police detention facilities. One option was to provide that a decision by a pretrial officer should be well reasoned and authorized by his or her superior officer. Another possibility under consideration was to provide that the limit of detention in police detention facilities should be reduced from 15 to 10 days. Discussions were being held within the Ministry of Justice, which would consult the relevant institutions, and it was hoped that the bill would go to Parliament in the autumn.

18. With regard to Mr. Tugushi's earlier question about medical care for detained persons, detention centres were required to have a community nurse. In the absence of a nurse, a detainee could be examined by a police officer, but a medical professional could be summoned within 24 hours. With regard to administrative violations, a person could be held for 30 days if he or she was guilty of multiple offences. However, the Code on Administrative Violations would be adopted on 1 July 2015, following which offenders would not be kept in police detention facilities.

19. His delegation accepted that the conditions in Vilnius Arrest House were inappropriate for both detainees and staff. The House was to be reconstructed under a public-private partnership and procurement procedures were currently being undertaken. With regard to the question concerning the use of excessive or disproportionate force by the police, he said that such behaviour was not tolerated and that any complaints were always investigated. Public trust in the police was very high, having risen from a positive rate of 48 per cent in 2004 to 68 per cent in 2013.

20. **Mr. Uscila** (Lithuania) said that the problem of overcrowding was being solved by modernizing prison facilities and by expanding the probation system, in accordance with the Law on Probation adopted in 2012. Overcrowding was a problem in only three prisons: Vilnius Remand Prison, Šiauliai Remand Prison and Pravieniškės Correction House. Prison numbers overall had been 9,900 in 2000 and had fallen to 9,100 in 2013, so the trend was downward. Prisons were at 95 per cent capacity. As for probation, there had been 20,000 people on probation in 2012 and over 21,000 in 2013. People on probation could be

reintegrated into society through behaviour correction programmes. Electronic monitoring had also been successfully applied: of 170 people tagged, only 2 had grossly violated the terms of their monitoring and been sent to prison. With regard to conditional release, he said that a working group set up by the Ministry of Justice had recommended improvements to the terms of conditional release, which were likely to be implemented.

21. The Government had approved a modernization plan for the country's prisons administered by the Ministry of Justice, under which new facilities would be built. To date, €5.5 million had been invested in the programme. Prison hospital facilities would be adapted for inmates with special needs and halfway houses would be opened to facilitate reinsertion into the community. Remand prison facilities would also be improved.

22. Life sentences could be commuted by parliamentary amnesty, presidential pardon or where the convicted persons' state of health made it advisable to curtail their prison term. Convicts could request a presidential pardon after serving 10 years. The principle of non-segregation of inmates serving terms of life imprisonment was adhered to. They had access to computers and virtual library services, were free to practise their religion and allowed to engage in a range of activities, including sports and computer literacy courses. The first 10 years of a life sentence were served in standard prisons. Thereafter, at the discretion of the courts, such prisoners could be transferred to facilities with less stringent conditions.

23. **Mr. Petrauskas** (Lithuania) said that there had been two investigations into the alleged illegal transfer through and incarceration in the State party of prisoners in cooperation with the United States Central Intelligence Agency. No evidence had been found to corroborate those allegations. Available information on projects to refurbish and equip a series of buildings for use as prisons for such persons did not indicate whether they had in fact been used for that purpose. For national security reasons, the use to which the buildings had been put could not be revealed. A fresh inquiry had been ordered in early 2014 after the Supreme Court had quashed a decision by the Public Prosecution Service not to pursue the matter. If more information came to light on the fate of individuals allegedly held in detention in the State party in that context, the scope of the investigation would be broadened and, if necessary, previous inquiries would be reopened.

24. **Ms. Michailovskytė** (Lithuania) said that the system of child welfare and responsibility for protecting the rights of the child was being reorganized. Institutional functions would be administered at the municipal level and enshrined in law. Corporal punishment would be prohibited by new legislation on child protection, under which physical and psychological ill-treatment of children would be clearly defined and criminalized. Municipalities, the police and specific children's services worked together to assist children who were victims of abuse. The involvement of the health services and schools was also encouraged.

25. **Mr. Mickevičius** (Lithuania) said that, with regard to questions on hazing in the armed services, conscription and military detention centres had been abolished. Officers did not have the right to detain members of the armed services. Military personnel could be held criminally liable for their acts. They could also submit anonymous complaints to the General Inspectorate of the Ministry of Defence. Of 104 such complaints received in 2013, 38 had been found to be substantiated and sanctions had been applied to the guilty parties.

26. **Ms. Sirgedienė** (Lithuania) said that under the State party's legislation on human trafficking, which complied with international agreements, victims could be freed of liability for certain offences committed in the context of trafficking. Persons who benefited from the use of illegal forced labour were liable to prosecution under the Criminal Code. Penalties ranged from 2 to 15 years' imprisonment. In 2013, 33 people had been prosecuted for labour and sexual exploitation offences involving 47 victims. Eleven of the accused had been convicted on multiple charges and sentenced to prison terms ranging from 3.5 to 12

years. The 2013–2015 national action plan on human trafficking had been extended to 2016. As a relatively new member State of the European Union, Lithuania was obliged to provide Eurostat only with data regarding domestic cases, not international cases.

27. The lion's share of government funding for combating human trafficking was allocated to assistance for victims. A total of LTL1.1 million had been budgeted for counter-trafficking activities in 2015, while LTL30 million had been set aside for victim support. NGOs could submit projects for State funding. Basic police training lasted one year but separate optional courses on international instruments, including the Convention, and on human trafficking and labour exploitation were also offered. Supplementary programmes on criminal procedure, fundamental human rights and victim assistance were also available to police officers who wished to pursue their studies to master's degree level. They could also take part in international training programmes. The Ministry of the Interior had compiled a system of indicators for identifying victims of human trafficking.

28. **Ms. Ivanauskienė** (Lithuania) said that 90 complaints of police violence had been received in 2012 and 89 in 2013. Such cases were investigated internally by the police.

29. **Ms. Sirgedienė** (Lithuania) said that the Inspector-General of the Ministry of the Interior was also empowered to conduct inquiries into cases of alleged police violence, impose penalties on guilty officers and monitor other investigations into such allegations.

30. **Mr. Uscila** (Lithuania) said that, according to the Seimas Ombudsman's Office, 693 administrative court cases had been launched against prison officials in 2013 as a result of complaints by inmates. The courts had issued prison officials with fines totalling €74,000. Three prison officials had been dismissed by the Prisons Department in 2013 as a result of investigations into five cases of misconduct. The department had set up a criminal intelligence unit in 2014 to carry out internal investigations of misconduct by its officials.

31. **Mr. Petrauskas** (Lithuania) said that complaints of misconduct by public officials could be lodged with the institution concerned or sent to the Public Prosecution Service. The service had received 102 complaints of police misconduct in the first nine months of 2013. More than 30 pretrial investigations had been launched and three police officers had received convictions.

32. **Mr. Gagas** (Lithuania) said that new legislation on domestic violence had been enacted in December 2011. In 2013, more than 10,000 investigations of cases of alleged domestic violence had been launched in response to more than 21,000 reports. The police could inform welfare bodies about domestic violence cases. Legislation would be reviewed further in order to implement best practices. Municipal support centres provided assistance to victims of domestic violence but funds were lacking for a 24-hour nationwide service.

33. **The Chairperson**, speaking as Country Rapporteur, said that he hoped the State party would enact the bill on the national human rights institution by the end of 2014. He asked whether more funds would be allocated to the Seimas Ombudsman's Office so that it could carry out the role of the institution effectively. Referring to paragraph 1 of the list of issues (CAT/C/LTU/Q/3), he urged the State party to incorporate a single and comprehensive definition of torture into its domestic law. He asked if cruel, inhuman or degrading treatment or punishment were defined anywhere in current legislation.

34. He said that he would like to know why an instruction had been sent from the Ministry of Justice to lawyers and whether that was indicative of flaws in the system of provision of legal counsel to detainees. He asked whether the right of detainees to be seen by a doctor of their own choice upon arrest was guaranteed by law. He also asked whether the State party intended to increase efforts to seek alternatives to pretrial detention and to reduce the maximum permissible period for police custody. If persons had to be kept in pretrial detention, they should be sent to remand prisons as soon as possible rather than held

in police cells. In general, however, the extensive use of pretrial detention exacerbated the problem of prison overcrowding, which had shown only marginal signs of improvement. He reiterated his question as to whether convicts serving life imprisonment could request parole.

35. He asked whether the cooperation of neighbouring countries, such as Poland and Finland, would be sought in the course of renewed investigations into the alleged use of sites in the State party as secret jails by the United States Central Intelligence Agency. He requested up-to-date statistics on human trafficking and asked whether the Public Prosecution Service alone was responsible for leading criminal investigations into allegations of police violence, or whether the police force could conduct its own inquiries.

36. **Mr. Domah** (Country Rapporteur) said that outlawing torture in the Constitution was necessary but not sufficient; the prohibition needed to be incorporated into national legislation, and thereafter implemented. Noting that evidence obtained through torture was apparently still excluded only at the court's discretion, he asked whether in case 197462, cited in earlier replies by the delegation, the minor in question had received compensation for the torture he had suffered. He asked how the State party reconciled the freedom of law enforcement personnel to use coercion during criminal investigations, subject to the principle of proportionality, with detainees' right to remain silent.

37. **Ms. Belmir** said that as she had not received complete answers to any of her previous questions, she would ask them again. She asked how Lithuanian courts interpreted the jurisprudence of the European Court of Human Rights on racial discrimination. She was concerned that the evidence threshold for establishing the existence of such discrimination might be too high. The definition of racial discrimination also required scrutiny.

38. The Subcommittee on the Prevention of Torture had cited evidence of abusive conduct by Lithuanian police towards detainees. While it might be difficult to eradicate such conduct on the part of police officials, it was unacceptable for prosecutors and judges to ignore requests to investigate occurrences. She emphasized that the State party must ensure that no asylum seekers were forcibly returned to countries where they were likely to suffer ill-treatment.

39. **Mr. Gaye** said that it was important to ensure that those entitled to compensation and reparation actually received it. He asked how the State party ensured that compensation was paid in cases when perpetrators could not afford to pay.

40. **Mr. Modvig**, citing the description in paragraphs 30 and 31 of the State party's report of a mechanism for recording signs of ill-treatment of people in police custody, asked how many cases of bodily injury had been recorded in recent years, which entity was responsible for investigating such cases, how many cases had been submitted to the prosecution authorities and what the outcomes had been.

41. **Ms. Pradhan-Malla** asked whether the Committee's concluding observations would be transmitted to the appropriate judiciary and legislative institutions for implementation. What were the chief barriers to full implementation of the constitutional provision prohibiting torture? The Committee stood ready to assist the State party in identifying ways of eliminating those barriers. She asked what proportion of cases brought under the State party's legislation prohibiting human trafficking had led to convictions. Did the legislation have transnational jurisdiction, and were compensation and reparation provided to victims and their families?

The meeting was suspended at 5.20 p.m. and resumed at 5.30 p.m.

42. **Mr. Stripeika** (Lithuania) said that in 2013 the budget of the Ombudsman's Office had been increased by 10 per cent, the number of full-time staff positions had been increased and an office for human rights opened.

43. **Ms. Michailovskyté** (Lithuania) said that compensation for pecuniary and non-material damage was provided for by law. The State was liable for unlawful actions by its institutions and employees and provided compensation to victims when the perpetrators could not do so. Lithuanian courts followed the jurisprudence of the European Court of Human Rights in matters of racial discrimination. Discrimination was prohibited under article 29 of the Constitution and Lithuania was a party to many international instruments prohibiting discrimination, including the Convention on the Elimination of All Forms of Racial Discrimination. The Supreme Court had ruled that for charges of discrimination to be brought, certain elements, including a specific discriminatory intent, had to be proven.

44. **Ms. Ivanauskienė** (Lithuania) said that internal investigations could be launched by either the police or the prosecution authorities. According to article 11 of the Criminal Code, force could be used to eliminate obstacles to carrying out pretrial investigations, but it should not be used to force suspects to produce evidence. Suspects had the right to remain silent.

45. **Mr. Petrauskas** (Lithuania) said that ongoing training was provided to judges and prosecutors. He could not provide details about cooperation with other countries in relation to United States Central Intelligence Agency detention facilities, because in one of the cases cited the investigation was pending, and the other one involved classified information. His country's prosecution authorities made use of all available measures, including the right to request legal assistance from other countries under bilateral legal cooperation treaties.

46. **Mr. Uscila** (Lithuania) said that, according to article 158 of the Criminal Punishment Enforcement Code, those imprisoned for life could not benefit from conditional release.

47. **Ms. Sirgedienė** (Lithuania) said that the Law on the Legal Status of Aliens outlined the conditions under which they could be expelled from the country. Officials dealing with asylum requests had access to information from various sources, including a European Union portal. Since 2010 her Government had monitored expulsion cases to ensure that international standards were followed. A civil society observer was involved in the monitoring process. She would provide the Committee with statistics on human trafficking in due course.

48. **Mr. Mickevičius** (Lithuania) said that, while his country's Criminal Code did not identify torture as a specific crime, it could be prosecuted on the basis of the norms and rules outlined there. His Government might consider amending the Code if the change could be shown to bring tangible benefits.

49. Detainees' right to promptly access legal counsel was protected by law, and detainees were informed of their rights at the start of the detention. While he agreed that it would be preferable not to keep people in police custody for long periods, the current procedures could not be changed until additional facilities were built. Referring to issues raised by Ms. Belmir, he said that, while he could not comment on specific cases, appropriate appeal and complaint procedures were in place. He could not provide the statistics requested by Mr. Modvig regarding sanctions imposed on police officers, but there had been investigations into the use of violence by the police. Detainees had opportunities to file complaints, and such complaints were transmitted by the police to the competent authorities, such as the Ombudsman's Office or the prosecution authorities.

50. **Ms. Stankevičienė** (Lithuania) said that all relevant institutions had been consulted in connection with the preparation of the third periodic report. The Committee's concluding observations would be translated into Lithuanian, published online and distributed to all the institutions concerned, including the Parliament. Her Government greatly valued its

cooperation with United Nations treaty bodies, whose recommendations were useful for helping the Government to assess and improve its policies.

51. **Mr. Stripeika** (Lithuania) said that his delegation had endeavoured to answer the Committee's questions as fully as possible and would be happy to provide written replies to any questions requiring further elucidation.

52. **The Chairperson** said that he looked forward to reading about further positive developments in the State party's next periodic report.

The meeting rose at 6 p.m.